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EXAMINER				
COBURN, CORBETT B				
ART UNIT		PAPER NUMBER		
3714				
NOTIFICATION DATE		DELIVERY MODE		
05/21/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/780,089

**Applicant(s)**

ACHARYA ET AL.

**Examiner**

Corbett B. Coburn

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13, 14, 16, 18, 19, 21, 22, 24-27, 29, 31, 32, 34, 35, 37 and 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13, 14, 16, 18, 19, 21, 22, 24-27, 29, 31, 32, 34, 35, 37 and 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-840)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/12/10
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 13 & 26 and all those depending from them are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 13 recites, “each game participant communication device is in communication with the conference server and the audio mixer but does not directly communicate with the conference server”. This negative limitation is not disclosed in the original specification. Furthermore, the original specification states that the audio mixer may be integrated into the conference server. (Paragraph 0020) Therefore, it would be impossible for the player to communicate with the audio mixer without communicating with the conference server.
3. Claims 14 & 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 14 requires “telepathic connections” between players. Applicant has not described how telepathy can be implemented.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 14 & 27 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. Claim 14 requires telepathy. Despite claims by late-night television mystics, telepathy has not been demonstrated & violates the laws of nature.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 13, 14, 16, 18, 19, 21, 22, 24-27, 29, 31, 32, 34, 35, 37 & 38 are rejected under 35 U.S.C. 102(c) as being anticipated by Christofferson et al. (US Patent Number 7,006,616) or in the alternative under U.S.C. § 103(a) as being obvious over Christofferson.

**Claims 13, 26:** Christofferson teaches a method for providing simultaneous context based audio interaction among a plurality of participants in a network based gaming environment. Christofferson teaches establishing a network based game environment using a game server (200) containing a plurality of game participants (20) and thus identification for these participants. (Any server that is used in playing a game is a “game server”). Christofferson maintains a game state profile for each one of the game participants and establishes a plurality of concurrent voice over Internet protocol based audio conferences among the game participants based upon the game state profiles. The game state profiles include a game specific context for each game participant -- the game state profile includes at least the participant’s location in the virtual environment. (Abstract & Col 1, 37-47) Each audio conference includes two or more game participants having one or more shared game contexts. Every conference must have multiple participants – one cannot confer with oneself. Since the participants are all in the same game, they have at least one shared game context. Furthermore, Christofferson teaches providing sound based on location. The location in the virtual world is an attribute that permits audio communications between players.

Christofferson teaches using the game state profiles to identify a plurality of groups of participant identifications. Fig 8 shows one such group. It also indicates that there is at least one other group that may be joined by clicking the “To Hawaii” area on the screen. Each group has a plurality of participants that have the same shared game context – they are located in the same chat room. This shared context allows audio communications between participants in the group.

Christofferson teaches VOIP conferences that are simultaneous and independent. The conference that is associated with the mountain setting is independent from the simultaneous conference in the Hawaiian setting. Each of the audio conferences is associated with one of the groups of participants.

Christofferson teaches identifying a feature vector (attenuation values) including direction & distance information between pairs of participants & using this information to modify audio signals exchanged between pairs of participants within the audio conference.

Christofferson's game server (200) is separate from the conference server (300). The conference server (300) establishes an audio path between audio mixers (310) and communications devices associated with each game participant (110). This permits audio communications among game participants. Each game participant device is in communication with the conference server (300) & the audio mixer (310) but does not communicate directly with the conference server. Fig 2 shows that the player stations (310) communicate directly with the game server (200).

It is Examiner's position that System Control Unit (200) and Audio Bridging Unit (300) are separate servers. However, if they are not separate servers, it is extremely well known to divide the various functions of a computer system between separate servers. This allows easier maintenance since units belonging to separate servers can be maintained without bringing down the entire system. For example, if Audio Bridging Unit (300) needed to be maintained, a substitute Audio Bridging Unit could be attached to System Control Unit (200) and the game could continue with minimal interruption. It

would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Christofferson (to the extent any modification is required) to separate the various components into separate servers in order to ease maintenance.

**Claims 14, 27:** Christofferson teaches that the game specific context may be membership in a group. In Fig 8, there are three groups.

**Claims 16, 29:** Christofferson teaches that the participation in a conversation is based on proximity. In Fig 8, Player F may participate in the conversations of two groups if he is in close enough proximity to both.

**Claims 18, 19, 31, 32:** Christofferson inherently teaches modifying the group of participants based upon changes in the game state profiles of game participants in the group. If a participant enters or leaves the conference, a member is added or deleted from the group.

**Claim 21, 34:** Christofferson teaches determining a plurality of groups of participants wherein each group of game participants possessing a shared context that permits the transmission or receipt of audio communications among game participants in that group. Furthermore, Christofferson teaches dynamically switching at least one participant between two distinct groups. (Fig 8) Participants may form multiple groups in a chat room and there may be multiple chat rooms. A participant may move from group to group within a chat room or move to an entirely different chat room.

**Claims 22, 35:** Christofferson's game server is a back-to-back user agent that maintains audio conferences on behalf of the game participants. (Abstract) The system sets up

each media path to point to the communications device of each game participant. If it did not, no conference would be possible.

**Claims 24, 37:** Christofferson teaches determining an audio feature vector for each pair of audio conference participants based upon the game state profiles associated with the participants and modifying audio signals transmitted between the pair of audio conference participants in accordance with the audio feature vector. Christofferson teaches that the sound heard depends on the position (i.e., direction & distance information) of the various participants. It uses this feature vector to modify the audio signals exchanged between participants. (Col 3, 43-47)

**Claims 25, 38:** Christofferson teaches changing the sound based on changes in relative position. (Col 3, 43-47) This is modifying the audio feature vector in response to changes in the game state profiles of the audio conference participants.

***Examiner's Note***

9. The state of 35 U.S.C. §101 is in flux. Claims drawn to a computer readable medium may not be sufficient to ensure subject matter eligibility. The latest guidance the Examiner has received is that claims reciting a “tangible computer readable medium” may be reasonably interpreted as reading on a signal. The Office suggests that the claims be rewritten to recite a “non-transitory computer readable medium”. The Office further suggests that this will not normally be considered new matter – unless Applicant’s specification does not support a non-transitory embodiment because a signal *per se* is the only viable embodiment.



***Response to Arguments***

10. Applicant's arguments filed 31 December 2008 have been fully considered but they are not persuasive. They are drawn to the amended claims & are answered in the rejection above.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corbett B. Coburn/  
Primary Examiner  
Art Unit 3714